

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

RightCHOICE Managed Care, Inc., *et al.*,

Plaintiffs,

v.

Hospital Partners, Inc.; Hospital Laboratory Partners, LLC; Empower H.I.S. LLC; RAJ Enterprises of Central Florida, LLC d/b/a Pinnacle Laboratory Services; Labmed Services, LLC; Serodynamics, LLC; David Byrns; Jorge Perez; Beau Gertz; and Mark Blake,

Defendants.

Civil Action No.

5:18-CV-06037-DGK

**Joint Stipulation of Dismissal
of Certain of Plaintiffs' Claims
Against David Byrns**

Pursuant to Federal Rule of Civil Procedure 41(a), it is hereby stipulated and agreed by and among Plaintiffs and Defendant David Byrns, through their respective undersigned counsel, that Plaintiffs' claims against Byrns for negligent misrepresentation (Count II), ERISA restitution (Count III), declaratory and injunctive relief (Count IV), aiding and abetting a tort (Count VII), unjust enrichment (Count VIII), and money had and received (Count IX) shall be dismissed with prejudice.

This stipulation does not relate to or include Plaintiffs' claims against Byrns for fraud (Count I), tortious interference with contract (Count V), and civil conspiracy to commit fraud and tortious interference with contract (Count VI), which the Court granted summary judgment to the Plaintiffs on. (*See* Dkt. 617.)

Each party will bear its own attorney's fees and costs.

Dated: September 19, 2021

By: /s/ Michael L. Jente

LEWIS RICE LLC

Neal F. Perryman, MO Bar #43057
Michael L. Jente, MO Bar #62980
600 Washington Avenue, Suite 2500
St. Louis, Missouri 63101
T: (314) 444-7600
nperryman@lewisrice.com
mjente@lewisrice.com

-and-

ROBINS KAPLAN LLP

Jeffrey S. Gleason (admitted PHV)
Munir R. Meghjee (admitted PHV)
Jason W. Pfeiffer, MO Bar # 50104
Nathaniel J. Moore (admitted PHV)
Jaime J. Wing (admitted PHV)
J. Haynes Hansen (admitted PHV)
800 LaSalle Avenue, Suite 2800
Minneapolis, Minnesota 55402
T: (612) 349-8500
F: (612) 339-4181
jgleason@robinskaplan.com
mmeghjee@robinskaplan.com
jpfeiffer@robinskaplan.com
nmoore@robinskaplan.com
jwing@robinskaplan.com
hhansen@robinskaplan.com

Attorneys for Plaintiffs

By: /s/ J. Justin Johnston (with consent)

J. Justin Johnston, KS Bar #20101
811 Grand Blvd. #101
Kansas City, Missouri 64106
T: (816) 739-4538
jjj@johnstonlawkc.com

Attorney for Defendant David Byrns

Certificate of Service

I hereby certify that the foregoing was filed electronically with the United States District Court for the Western District of Missouri, through the Court's CM/ECF system, on the 19th day of September, 2021, with notice of case activity sent to counsel of record.

/s/ Michael L. Jente